



**MILPITAS CITY COUNCIL MEETING AGENDA
FEBRUARY 21, 2006**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

**CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING
(Pursuant to California Government Code Section 54957.6)**

City Negotiators: Art Hartinger, Ed Kreisberg, Carmen Valdez

Employee Organizations: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF), Protech

Under Negotiation: Wages, Hours, Benefits, Working Conditions

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV008400

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Pursuant to California Government Code Section 54956.8)

Property: 400 South Abel Street, Milpitas, CA (APN: 086-10-007)

Negotiators: City of Milpitas (Greg Armendariz). Negotiating Party: KC Propco, LLC

Under Negotiation: Terms and Conditions for Purchase of Public Utility Easement

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

(Pursuant to California Government Code Section 54956.8)

Property: 92 Serra Way, Milpitas, CA (APN: 086-08-019)

Negotiators: City of Milpitas (Greg Armendariz). Negotiating Party: Prime Properties

Under Negotiation: Terms and Conditions for Purchase of Public Utility Easement

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Polanski)

VI. APPROVAL OF MINUTES (February 7, 2006)

VII. SCHEDULE OF MEETINGS

VIII. PRESENTATION

Commendations:

To 29 Milpitas PAL (Police Athletic League) Football Team Coaches and Team Moms

IX. CITIZENS FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARINGS

- 1. Continue the Use Permit No. UP2006-1 and "S" Zone No. SZ2006-1 for an Auto Dealership at 950 Thompson St. from Applicant Piercey Automotive Group (Staff Contact: Cindy Maxwell, 586-3287)**
- 2. Authorize Entertainment Permit For a Carnival at the Great Mall, By Butler Amusements Inc., For March 3-12, 2006 (Staff Contact: Mary Lavelle, 586-3001)**

XV. UNFINISHED BUSINESS

- 3. Receive Progress Report on Unpaid Developer Fees (Staff Contact: Greg Armendariz, 586-3317)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (February 7, 2006)

RA4. Approval of Agenda and Consent Calendar

***RA5. Approve Senior Center Facilities Subcommittee Recommendation for Senior Center Project and Authorize The City Manager To Execute An Agreement For Consultant Services: GSS Consulting: Senior Center, Project 8176 And Main Sewage Pump Station Site Improvements, Project 6079 (Staff Contact: Greg Armendariz, 586-3401)**

***RA6. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Pump Station Improvements, Project No. 8106 & Oak Creek Pump Station Improvements, Project No. 8140 (Staff Contact: Doug De Vries, 586-3313)**

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 4. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)
- 5. Discussion and Action Related to Placing on the June 2006 Ballot an Advisory Measure Regarding Change From a General Law to a Charter City (Contact: Armando Gomez, 586-3031 and Robert Livengood, 586-3027)

Citizens Emergency Preparedness Advisory Commission (CEPAC)

- * 6. Revision to Citizens Emergency Preparedness Advisory Commission (CEPAC) Bylaws (Staff Contact: Patti Joki, 586-3370)

Public Art Committee

- * 7. Approve the Bylaws for the Public Art Committee (Staff Contact: Kathleen Yurchak, 586-3209)

XVIII. NEW BUSINESS

- * 8. Approve the Date, Event Proposal, and Proposed Budget for Renaming the Milpitas Senior Center for Barbara Lee with a Renaming Dedication and Ribbon Cutting Ceremony on Tuesday, April 25, 2006 (Staff Contact: Bonnie Greiner, 586-3227)
- * 9. Authorization to Apply for the Home Depot Foundation and the U.S. Conference of Mayors Awards of Excellence for Community Trees Program (Staff Contacts: Greg Armendariz, 586-3317 and Carol Randisi, 586-2601)
- * 10. Approve Agreement For Transfer Of Real Property From Valley Transportation Authority And Adopt Resolution Declaring Certain Parcels As Public Right Of Way; Tasman Extension – Great Mall Parkway To I880, Project No. 4133 (Staff Contact: Greg Armendariz, 586-3317)

XIX. ORDINANCES

- 11. Waive First Reading Beyond the Title and Introduce Traffic Ordinance 43.203, an Amendment to the Traffic Code, to Change Speed Limits on Various Streets (Staff Contact: Jaime O. Rodriguez, 586-3335)
- 12. Waive First Reading Beyond the Title and Introduce Ordinance No. 273, An Ordinance Adding Section 1.15 To and Amending Sections 1.01 and 1.03 of Chapter 500 of Title I of the Milpitas Municipal Code Related to the Appointment, Power and Duties of an Alternate Member of the Planning Commission (Staff Contact: Steve Mattas, 586-3040)
- * 13. Waive Second Reading and Adopt Ordinance No. 227.4 Amending Chapter 215 of Title V of the Milpitas Municipal Code Related to Prohibitions on Smoking to Include Public Playgrounds and Sports Facilities (Staff Contacts: Greg Armendariz, 586-3317 and Bonnie Greiner, 586-3227)
- * 14. Waive Second Reading and Adopt Ordinance No. 224.6, Allowing an Alternate Member to Serve on the Milpitas Mobile Home Park Rental Review Board (Staff Contact: Peter Spoerl, 586-3040)

XX. RESOLUTION

- * 15. **Adopt Resolution Authorizing the Submittal of Proposition 46 Housing Assistance Grant Application to State of California, Department of Housing and Community Development (HCD) (Staff Contact: Felix Reliford, 586-3071)**

XXI. BIDS AND CONTRACTS

- * 16. **Approve First Amendment to High Occupancy Vehicle Agreement with the California Highway Patrol for Traffic Enforcement Services on Santa Clara County Expressways (Staff Contact: Steve Pangelinan, 586-2426)**
- * 17. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals: Well Upgrade Program, Project No. 7076, Phase II (Staff Contact: Doug DeVries, 586-3313)**
- * 18. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: South Park Victoria Dr. Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug DeVries, 586-3313)**

XXII. CLAIMS AND DEMANDS

- * 19. **Approve Payment Request: To One Vendor (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 7, 2006 AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.
Commissions, boards, councils and other agencies of the City exist to conduct the people's business.
This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. **FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION**
at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:
Economic Development Commission (rep. for Hotel Industry)
Senior Advisory Commission (alternate)

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

VIII. PRESENTATIONS

Commendations:

To 29 Milpitas PAL (Police Athletic League) Football Team Coaches and Team Moms

	<u>Team Moms</u>	<u>Team Coaches</u>
Silver Knights Team	Mia Frazier Miriam Avalos	Head Coach Chris DeSilva Asst. Coach Tyson Lunsford Asst. Coach Tom Gregory Asst. Coach Larry Jones
Green Knights Team	Lidia Van Dammne Lea Gregory	Head Coach Anthony Royall Asst. Coach Kirk Ansbury Asst. Coach Brian Hernandez Asst. Coach Derrick Gardere Asst. Coach Kyle Ansbery
White Knights Team	Valerie Hardy Doreen Fanua Treshell Reese Lorraine Munoz	Head Coach Elgin Almond Asst. Coach Mark Beppu Asst. Coach Matt Senados Asst. Coach Trevor Tate Asst. Coach Willie Wilson
Gold Knights Team	Jeanie Amezcua Sanae Alexander	Head Coach Mauricio Carrera Asst. Coach Santos Cantu Asst. Coach Ernie Ybarra Asst. Coach Jess Gutierrez Asst. Coach Andy Pommier

XIV. PUBLIC HEARINGS

- 1. Continue Use Permit No. UP2006-1 and "S" Zone No. SZ2006-1 for an Auto Dealership at 950 Thompson St. Applicant: Piercey Automotive Group (Staff Contact: Cindy Maxwell, 586-3287)**

Background: Piercey Automotive Group requests approval of Use Permit No. UP2006-1 and S-Zone No. SZ2006-1 for a 10 acre auto dealership with a 70,000 square foot showroom, offices and 52-bay service area. The project was recommended for approval with findings and conditions by the Planning Commission on February 8, 2006.

This request for continuance is to allow the applicant and City additional time to analyze building location and hydrology issues associated with the 100 year flood requirements as identified in the certified Environmental Impact Report for the Elmwood Project.

Recommendation: Continue the public hearing. Continue Use Permit No. UP2006-1 and S-Zone No. SZ2006-1 to March 21, 2006 and direct staff to readvertise the public hearing.

- 2. Authorize Entertainment Permit For A Carnival At The Great Mall, By Butler Amusements Inc., For March 3-12, 2006 (Staff Contact: Mary Lavelle, 586-3001)**

Background: Butler Amusements Inc. submitted an application on February 1, 2006 for an Entertainment Event Permit to hold a carnival at the Great Mall in Milpitas for the dates Friday, March 3 through Sunday, March 12, 2006. This company based in Fairfield, CA has operated

carnivals throughout the west, and in particular was the operator of a carnival sponsored by the Rotary Club in Milpitas, last May. Hours of operation for the carnival proposed are: from 4:00 PM – 10:00 PM Monday – Thursday, from 4:00 PM to 11:00 PM on Friday, from 11: 00 AM to 11:00 PM on Saturday, and 12 PM to 11:00 PM on Sunday.

The applicant must request a waiver for the number of days of operation, as the Milpitas Municipal Code Title III, Chapter 5, 4.01 states “No single entertainment event shall be operated within the City of Milpitas more than seven days in any three month period.”

The application was reviewed by the necessary City departments and the public hearing was advertised as required by municipal code. Appropriate conditions were stated by the several Departments, as noted in the agenda packet attachments.

Recommendation: Motion to approve an entertainment event permit for Butler Amusements Inc. to operate a carnival at the Great Mall for the dates of March 3 – 12, 2006.

XV. UNFINISHED BUSINESS

3. Receive Progress Report on Unpaid Developer Fees (Staff Contact: Greg Armendariz, 586-3317)

Background: Staff will provide a brief presentation on the collection progress of the unpaid developer fees.

Recommendation: Note and receive the progress report on the unpaid developer fees.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (February 7, 2006)

RA4. Approval of Agenda and Consent Calendar

***RA5. Approve Senior Center Facilities Subcommittee Recommendation for Senior Center Project and Authorize The City Manager To Execute An Agreement For Consultant Services: GSS Consulting: Senior Center, Project 8176 And Main Sewage Pump Station Site Improvements, Project 6079 (Staff Contact: Greg Armendariz, 586-3401)**

Background: Staff issued a Request For Proposal (RFP) for project management services consistent with the City's policy on consultant selection for the new Senior Center and Main Sewage Pump Station Site Improvements. Staff recommends GSS Consulting (GSS) for these services. GSS would provide the project management and technical support services for the Senior Center and Main Sewage Pump Station Site Improvements.

At the February 6, 2006 Senior Center Facilities Subcommittee meeting, the Subcommittee reviewed the proposed approach to manage the new Senior Center through a staff project team with project management services provided by GSS. The Subcommittee endorsed this approach and recommended it for approval by the City Council.

Specific consultant project management tasks for the new Senior Center include assistance with the building programming and design work including coordination with City planning, building and fire departments and outside agencies, plan and specification review, monitoring project budgets, coordinating permits, bidding assistance and related work. Specific tasks for the Main

Sewage Pump Station Site Improvements include project management of the design, coordination with PG&E and private property owners, bidding assistance and related work.

These services would be provided on a time and materials basis not to exceed \$350,000, which is considered reasonable for the effort involved. The current respective project budgets are sufficient to fund the services to be provided.

Recommendation: Approve Senior Center Facilities Subcommittee recommendation for Senior Center Project and authorize the City Manager to execute an agreement with GSS Consulting in the amount of \$350,000 subject to approval as to form by the City Attorney.

***RA6. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Pump Station Improvements, Project No. 8106 & Oak Creek Pump Station Improvements, Project No. 8140 (Staff Contact: Doug De Vries, 586-3313)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project will re-roof Oak Creek, Penitencia, and Bellew storm water pump stations. This project also includes: skylights, flashings, and minor structural repairs to the roof at the three stations.

The Engineers Estimate for this project is approximately \$135,000 and funds are available in the project budgets. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review at the Office of the City Engineer.

Recommendation: Approve plans and specifications and authorize advertising for bid proposals.

RA7. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

*** 4. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas citizens for appointment:

Economic Development Commission:

Appoint current Alternate #2 Minh Nguyen to vacant Alternate #1 term that expires in April 2007.

Appoint Zeya Mohsin as Alternate # 2 to a term that expires April 2006.

Citizens Emergency Preparedness Advisory Commission:

Appoint Alternate #1 Nancy Martinez to a vacant three-year term that expires June 2007.

Appoint Alternate #2 William Nolan to the Alternate #1 term that expires June 2007.

Appoint Lori Bersabe as Alternate #2 to a two-year term that expires June 2007.

Recommendation: Move to approve the Mayor's Commission appointments.

5. Discussion and Action Related to Placing on the June 2006 Ballot an Advisory Measure Regarding Change From a General Law to a Charter City (Contact: Armando Gomez, 586-3031 and Robert Livengood, 586-3027)

Background

In California, a city is either a General Law or a Charter City. A Charter City is regulated by State law in matters of statewide significance and acts under its Charter authority with respect to matters that are municipal affairs. A General Law city is regulated by State law and is more limited than a Charter City with respect to municipal affairs. Santa Clara County cities which have charters include San Jose, Sunnyvale, Santa Clara, Gilroy, Mountain View, and Palo Alto.

Our current system under the "General Law" form of government has problems. As we move forward and budgets become tighter, we learn that we could have done more with less in past years and we could have operated more efficiently. Also, the City recently renegotiated a previous agreement set up by the former administration with the County regarding a Health Center saving the City approximately \$7,000,000. Over the last few years and under the previous administration, several department heads have bypassed a competitive recruitment process and were directly appointed to high level and high paying positions leaving the council and public with a feeling of skepticism as to whether or not the most qualified person was appointed to the position.

Vice Mayor Gomez and Councilmember Livengood feel strongly that our City government can be improved upon and it warrants discussion among the residents of the City. The voters need to consider providing the Council with the tools to provide more oversight of city staff. Tools such as additional councilmembers, rules regarding budget procedures, setting a philosophy into the structure of our government, protections from the state legislative changes impacting municipal affairs and more local authority and control over municipal affairs are all issues the voters should consider in voting for the measure and the Council should consider in giving the voters the opportunity to move in this direction.

In accordance with the California Constitution, Milpitas voters may enact a City Charter to govern their City Government. Drafting a Charter does require time and effort and is a significant change in how the city operates. Rather than directing staff to invest time in drafting a Charter, we request the voters provide the Council with direction on the matter. It is their City.

Recommendation

Vice Mayor Gomez and Councilmember Livengood recommend the Council place on the June 2006 ballot an advisory measure requesting the voters of Milpitas provide the Council direction regarding Milpitas changing from a General Law to a Charter City which could include among other things 1) requiring a rainy day reserve that cannot be used for salaries, 2) requiring certain capital projects over \$15 million obtain voter approval, 3) increasing the City Council from 5 to 7 members to promote civic participation and greater oversight of staff; 4) requiring a formal process when hiring the City Manager, Assistant City Manager and department heads; 5) requiring the Council shall contract with an independent audit firm, which has no other contract with the City, to conduct a performance audit of each City department every 10 years; and 6) is consistent with this statement of policy and General rules outlined in this memo.

Citizens Emergency Preparedness Advisory Commission (CEPAC)

*** 6. Revision to Citizens Emergency Preparedness Advisory Commission (CEPAC) Bylaws (Staff Contact: Patti Joki, 586-3370)**

Background: At the November 17, 2005 meeting of the Citizens Emergency Preparedness Advisory Commission, the Commission approved revisions to their bylaws, and requested these changes be brought forward to the City Council for approval.

The changes (three in all) would provide the Milpitas Board of Education the flexibility to appoint a school board staff person to the Committee (Section 2); ensure, as much as practicable,

that the Radio Amateur Civil Emergency Service (RACES) is properly represented by having one Commissioner be a RACES member, if available (Section 2); and, to eliminate a redundant sentence (Section 5).

The City Attorney has reviewed these changes.

Recommendation: Staff recommends approval as submitted.

Public Art Committee

- * **7. Approve the Bylaws for the Public Art Committee (Staff Contact: Kathleen Yurchak, 586-3209)**

Background: The newly established Public Art Committee conducted their first meeting on Monday, January 23, 2006, and reviewed their proposed bylaws, which were approved by Committee majority. Enclosed in the Council’s packet are the Unapproved Minutes from the January 23, 2006, Public Art Committee meeting and the final draft of the Public Art Committee’s Bylaws for the Council’s review and adoption.

Recommendation: Approve the Public Art Committee’s Bylaws.

XVIII. NEW BUSINESS

- * **8. Approve the Date, Event Proposal, and Proposed Budget for Renaming the Milpitas Senior Center for Barbara Lee with a Renaming Dedication and Ribbon Cutting Ceremony on Tuesday, April 25, 2006 (Staff Contact: Bonnie Greiner, 586-3227)**

Background: At the January 18, 2006, Facilities Naming Subcommittee meeting, the subcommittee recommended holding the Barbara Lee Renaming Dedication and Ribbon cutting Ceremony on Tuesday, April 25, 2006, at the Milpitas Senior Center.

The event would begin at 12:00 p.m. with lunch at Senior Nutrition Program. The Renaming and Ribbon Cutting Ceremony would begin at 1:00 p.m. with introductions and remarks from the Barbara Lee family and City dignitaries followed with light refreshments and entertainment. The festivities would conclude with closing remarks at 1:25 p.m. followed by the regularly scheduled bi-monthly Senior Advisory Commission meeting at 1:30 p.m.

The new sign will read “Barbara Lee Senior Center and Cracolice Building,” as currently stated.

Below is the proposed budget for the event:

Refreshments	\$150
Paper Products	\$100
Entertainment	\$200
Decorations	\$100 (ribbons, flowers, balloons)
Sign/Plaques	<u>\$3,000</u>
Total:	\$3,550

Recommendation: Approve proposed budget as recommended by the Facilities Naming Subcommittee and approve funds from the City Council Community Promotions budget, not to exceed \$3,550.00.

- * **9 Authorization to Apply for the Home Depot Foundation and the U.S. Conference of Mayors Awards of Excellence for Community Trees Program (Staff Contacts: Greg Armendariz, 586-3317 and Carol Randisi, 586-2601)**

Background: The Home Depot Foundation and the U.S. Conference of Mayors has announced the First Annual Awards of Excellence for Community Trees recognition program. The goals of the Awards of Excellence program are to identify, recognize and showcase outstanding community partnerships that incorporate tree planting programs and the strategic use of trees, and which increase the public's knowledge, understanding and appreciation of trees and their role in creating healthy communities.

Application to the Awards of Excellence program is a two-step process. The initial on-line questionnaire became available on February 1, 2006. Applicants whose on-line responses reflect innovation in program design, community impact and program sustainability will be invited to submit a full proposal that will be reviewed by an independent Advisory Committee. The deadline for the on-line submission is February 24, 2006.

Awards will be presented in two population categories: cities with fewer than 100,000 people and cities with a population of 100,000 or more. Within each category, two grant awards will be made which include a \$75,000 grant award to the winning program, and a \$25,000 grant award to the runner-up. Awards will be announced at the U.S. Conference of Mayors Annual Meeting in Las Vegas on June 3, 2006.

Recommendation: Authorize staff to apply for the Home Depot Foundation and the U.S. Conference of Mayors Awards of Excellence for Community Trees program.

*** 10. Approve Agreement For Transfer Of Real Property From Valley Transportation Authority And Adopt Resolution Declaring Certain Parcels As Public Right Of Way; Tasman Extension – Great Mall Parkway To I880, Project No. 4133 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project is included in the approved Capital Improvement Program (CIP), and provides for the widening of Tasman along Great Mall Parkway from I-880 Interchange to southerly of Montague Expressway and other VTA Light Rail improvements.

As part of the Light Rail project, it is necessary for VTA to have acquired the requisite right-of-way to widen the roadway and provide easements for the project. Construction is now complete and Light Rail is in operation along Great Mall Parkway. VTA has several parcels that must be transferred to the City including Public Service Utility easements, street right-of-way and sidewalk easements. Twenty-eight parcels are ready to be accepted by the City and certain parcels that are deeded (fee transfer) to the City which need to be declared as public right of way. Summaries of the deeded parcels, including copies of the deeds are included in the City Council's packet. The remaining parcels will be presented to the City Council for approval when the transfer deeds have been finalized.

Staff and the City Attorney have reviewed the documents and recommend acceptance of the parcels.

Recommendation:

1. Authorize the City Manager to accept the deeded parcels from VTA.
2. Adopt Resolution declaring certain parcels public right-of-way.

XIX. ORDINANCES

11. Waive First Reading Beyond the Title and Introduce Traffic Ordinance 43.203, an Amendment to the Traffic Code, to Change Speed Limits on Various Streets (Staff Contact: Jaime O. Rodriguez, 586-3335)

Background: The City prepares Engineering and Traffic Surveys to determine the appropriate speed zone boundaries and speed limits on City streets, which in turn allows for the use of radar equipment in police enforcement. The California Vehicle Code only requires that surveys be current to within seven years. However, the City's practice is to keep surveys current to within five years. City Council action is required whenever an Engineering and Traffic Survey recommends rezoning of the speed zone boundaries or modification to the posted speed limit of a street.

Several studies were recently completed that result in changes to posted speed limits:

<u>Street</u>	<u>Speed Zone Segment</u>	<u>Existing Speed Limit</u>	<u>Proposed Speed Limit</u>
N. Abel St	Great Mall Pkwy. to 600-FT South of Sylvia Ave.	40 MPH	35 MPH
Escuela Pkwy.	Jacklin Rd. to 200-FT South of Russell Ln	35 MPH	30 MPH
Sycamore Dr.	Entire Section	40 MPH	35 MPH
Cottonwood Dr.	Entire Section	40 MPH	35 MPH

The following roadway segments were also studied but were not previously included in the Municipal Code for adoption by the City Council.

<u>Street</u>	<u>Speed Zone Segment</u>	<u>Existing Speed Limit</u>	<u>Proposed Speed Limit</u>
Heath St.	Entire Section	25 MPH	25 MPH
Weller Ln.	Entire Section	25 MPH	25 MPH

Recommendation:

1. Waive first reading beyond the title;
2. Introduce Traffic Ordinance No. 43.203, an Amendment to the Traffic Code, to change the speed limits on various streets

12. Waive First Reading Beyond the Title and Introduce Ordinance No. 273, An Ordinance Adding Section 1.15 To and Amending Sections 1.01 and 1.03 of Chapter 500 of Title I of the Milpitas Municipal Code Related to the Appointment, Power and Duties of an Alternate Member of the Planning Commission (Staff Contact: Steve Mattas, 586-3040)

Background: At its February 7, 2006 regular meeting, the City Council directed the City Attorney's Office to prepare and present for first reading an ordinance authorizing the City Council to appoint an alternate member to the Milpitas Planning Commission. The ordinance would amend sections of Chapter 500 of Title I of the Milpitas Municipal Code related to the Planning Commission's composition and terms of office. The Ordinance will also add a section related to an alternate Planning Commissioner's duties, powers and responsibilities. Other general law cities, such as the cities of Fortuna, Pleasanton and Davis, have alternate Planning Commissioners and grant such Commissioners the ability to serve as voting members of Planning Commission subcommittees and as representatives of the Commission to other boards and commissions. If the City Council wishes, staff can provide language to that effect.

Recommendation: Motion to waive the first reading beyond the title and introduce Ordinance No. 273, An Ordinance of the City Council of the City of Milpitas Adding Section 1.15 To and Amending Sections 1.01 and 1.03 of Chapter 500 of Title I of the Milpitas Municipal Code related to the appointment, power and duties of an alternate member of the City of Milpitas Planning Commission.

- * **13. Waive Second Reading and Adopt Ordinance No. 227.4 Amending Chapter 215 of Title V of the Milpitas Municipal Code Related to Prohibitions on Smoking to Include Public Playgrounds and Sports Facilities (Staff Contacts: Greg Armendariz, 586-3317 and Bonnie Greiner, 586-3227)**

Background: Ordinance No. 227.4 was introduced at the February 7, 2006 City Council meeting. After an inquiry to clarify the violations process between the labor code penalty structure of reporting three violations within a year to the California Department of Industrial Relations, and the Health and Safety code penalty of \$250 for each smoking violation, it was determined that the labor code penalty structure, as defined in Section V-215-1.60 Violations Reports to State, would be deleted from the Chapter and that the penalty for each violation of the Chapter would be \$250.

The City Council waived the first reading of the ordinance beyond the title and introduced Ordinance 227.4 at the meeting of February 7, 2006.

Recommendation: Waive second reading, and adopt Ordinance No. 227.4 amending Chapter 215 of Title V of the Milpitas Municipal Code, related to prohibitions on smoking to include public playgrounds and sports facilities.

- * **14. Waive Second Reading and Adopt Ordinance No. 224.6, Allowing an Alternate Member to Serve on the Milpitas Mobile Home Park Rental Review Board (Staff Contact: Peter Spoerl, 586-3040)**

Background: At its February 7 regular meeting, the City Council introduced the ordinance regarding membership on the existing Mobile Home Park Rental Review Board. The purpose of the proposed ordinance is to provide for an alternate position on the Board. If adopted, after the ordinance takes effect, the City Clerk will advertise for the vacancy, the Mayor may make his recommendation, and Council may vote to appoint an alternate member to the Board. With the new alternate, the Board could seat a quorum of that body at a scheduled meeting, in order to take action on any business before the Board. (Note: This Ordinance was introduced on February 7th as Ordinance 224.4, which was a clerical error).

Recommendation: Waive second reading and adopt Ordinance No. 224.6.

XX. RESOLUTION

- * **15. Adopt Resolution Authorizing the Submittal of Proposition 46 Housing Assistance Grant Application to State of California, Department of Housing and Community Development (HCD) (Staff Contact: Felix Reliford, 586-3071)**

Background: In November 2002, the voters of California approved Proposition 46 authorizing the approval of \$2.1 billion in bonds to provide a variety of affordable housing programs. Specifically, the CalHome Program-BEGIN “Building Equity and Growth in Neighborhood” provides funding to local public agencies for low and moderate first-time homebuyer mortgage assistance. If approved, the program provides the City and Redevelopment Agency with another opportunity to leverage its funds and additional financial resources to potential first-time homebuyers. The grants will be used for down payment assistance in the form of a loan to qualifying homebuyers of low-moderate income purchasing newly constructed homes.

The BEGIN Program is a homeownership program designed to make grants to qualifying cities and counties that provide incentives or reduce or remove regulatory barriers (such as density bonuses, reduction in development standards, reduction in permit processing/regulatory costs/fees and flexible parking standards) for housing development, as set forth in the BEGIN Guidelines. Applications that are substantially complete and pass the threshold (page 9 of 12 in the program guidelines) will be eligible for funding. The program does not require any matching funds on the part of the City. The program provides a total of \$30,000 or 20% of the home sales prices; whichever is less for down payment assistance used in the form of silent second financing.

Successful applicants (cities and counties) will be required to enter into a Standard Agreement with HCD. The term of the Standard Agreement shall be for 36 months from the date of the award letter. Part of the approval process requires the City Council to adopt a resolution authorizing the approval of the City to proceed with applying for the grant application. Included in the Council's agenda packet is a resolution authorizing the approval for the City staff to proceed with the submittal of the grant application and a copy of the BEGIN Program Guidelines.

If selected, the funding will be awarded in June/July 2006.

Recommendation: Adopt Resolution authorizing the submittal of the BEGIN Program application to HCD for affordable housing financial assistance for first-time homebuyers.

XXI. BIDS AND CONTRACTS

- * **16. Approve First Amendment to High Occupancy Vehicle Agreement with the California Highway Patrol for Traffic Enforcement Services on Santa Clara County Expressways (Staff Contact: Steve Pangelinan, 586-2426)**

Background: The California Highway Patrol [CHP] has been providing full traffic enforcement services, including collision investigations and issuing traffic citations on Montague Expressway, since 1987. The City of Milpitas, along with the cities of Campbell, San Jose, Santa Clara, and Sunnyvale has participated in a joint agreement with the CHP for full cost recovery services in accordance with the California Vehicle Code. The original agreement, which was approved by Council, covered July 1, 2003 through June 30, 2006. This first amendment to the original agreement is necessary to continue this program from July 1, 2006 through June 30, 2009.

CHP estimates that it will cost \$313,374 to provide this traffic enforcement service each fiscal year to the designated expressways in the five cities. Fines and forfeitures that are collected by the County and deposited with the State will be used to offset the \$313,374 cost of enforcement. Any excess monies up to \$75,000 will be carried over to the next fiscal year. Any monies in excess of \$313,374 plus \$75,000, shall be returned to the participating cities based on the percentage of expressway miles. Milpitas has 2.01 expressway miles on Montague Expressway and will be responsible for 9.72% of the \$313,374 cost or the lesser amount offset by collections. A 90-day withdrawal from this contract by any city is provided. The contract has been reviewed and approved as to form by the City Attorney's Office.

Recommendation: Authorize the City Manager to execute the first amendment to the HOV (High Occupancy Vehicles) agreement with the California Highway Patrol.

- * **17. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals: Well Upgrade Program, Project No. 7076, Phase II (Staff Contact: Doug DeVries, 586-3313)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project involves construction of a new well pump building at Curtis Park, including new pump building, well pump, pump controls, tie-in to the City's water system, and emergency power generation system. The plans also provide for the installation of a chlorination/ammoniation system at Pinewood Park.

The Engineer's Estimate for the work is approximately \$1,800,000. It is anticipated that a budget appropriation will be required to award this project for construction. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation: Approve plans and specifications and authorize advertising for bid proposals.

- * 18. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 568-3313)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The work will include placing a rubberized asphalt concrete overlay, localized full depth asphalt concrete repairs, cold planning, replacement of traffic detector loops, and installation of ADA compliant sidewalk ramps on South Park Victoria Drive (between Calaveras Boulevard and Yosemite Drive) and on Calaveras Boulevard between (Park Victoria Drive and I-680 on/off ramp east.)

The Engineer's Estimate cost for the work is approximately \$1,400,000. Staff has applied for and obtained grant funding of approximately \$1.2 Million from Federal Surface Transportation Program (STP) Funds. This grant requires local matching fund to be at least 11.47 percent of project cost. The budget appropriation scheduled in the Capital Improvement Program for July 1, 2006 will need to be advanced in order to meet the current schedule. A budget appropriation will be proposed, once bids are received and a contract award is presented to Council. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation: Approve plans and specifications and authorize advertising for bid proposals.

XXII. CLAIMS AND DEMANDS

- * 19. **Approve Payment Request to One Vendor (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing has prepared the following purchasing request over \$20,000 for approval:

\$167,457 to the County of Santa Clara, Office of the District Attorney, Crime Laboratory for the annual shared cost of submitting physical evidence to the County Major Case Unit for analysis by the Police Department.

(Funds are available from the Police Department operating budget for these services).

Recommendation: Approve the payment request.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 7, 2006, AT 7:00 P.M.**